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U.S. EQUAL EMPLOYMENT
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UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

V.

HOLY FAMILY ACADEMY,

Defendant.

} DOCKET NO. CV 08-00179 ACK-BMK
} CONSENT DECREE

CONSENT DECREE

L.

INTRODUCTION

Plaintiff Equal Employment Opportunity Commission (the “EEOC”) and Defendant Holy Family Academy hereby stipulate and agree to entry of this Consent Decree to resolve the EEOC’s complaint, filed under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (“Title VII”), alleging that: Roxanne Castilliano (hereinafter “Charging Party”) against Holy Family Catholic Academy, including but not limited

5 to any claims brought under Title VII of the Civil Rights Act of 1964, as
6 amended, 42 U.S.C. Section 2000e *et seq.* ("Title VII"). Holy Family
7 Catholic Academy's entry into and performance of the terms and
8 conditions of this Decree is not and shall not in any way be construed as an
9 admission by Defendant of any wrongful act, acts of discrimination,
1 violations of any federal, state or local law, or that any treatment of the
0 Charging Parties or any other person was unwarranted, unjustified,
discriminatory or otherwise unlawful.

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II.

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PURPOSES AND SCOPE OF THE CONSENT DECREE

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A. The parties to this Consent Decree ("Decree") are the EEOC
8 and Holy Family Catholic Academy. This Decree shall be binding on and
9 enforceable against Holy Family Catholic Academy.

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B. The parties have entered into this Decree for the following
7 purposes:
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1. To avoid further expenses incident to this litigation; and
I. 2. To provide a final and binding settlement upon
the parties as to all Title VII claims alleged by the EEOC and
Charging Party in the Charge of Discrimination, No. 378-2004-
00260 filed on May 3, 2004 and Amended Charge of Discrimination
filed on July 9, 2004 with the EEOC.

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III.

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RELEASE OF CLAIMS

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A. This Decree fully and completely resolves all issues, claims
1 and allegations by the EEOC and the Charging Party against Holy Family
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4 Catholic Academy that are raised in the Charge (EEOC Charge No. 378-
5 2004-00260) and Amended Charge (EEOC Charge No. 378-2004-00260
6 Amended) filed in this case with the EEOC on May 3, 2004 and July 9,
7 2004, respectively.

8 B. Nothing in this Decree shall be construed to preclude the
9 EEOC or Holy Family Catholic Academy from bringing a petition before
1 the Court to enforce this Decree in the event that any party hereto fails to
0 perform the promises and representations contained herein.

1 C. Nothing in this Decree shall be construed to limit or reduce
1 Holy Family Catholic Academy's obligation to comply fully with Title VII,
1 the ADEA, or any other federal employment statute.

2 D. This Decree in no way affects the EEOC's right to bring,
1 process, investigate or litigate other charges that may be in existence or
3 may later arise against Holy Family Catholic Academy in accordance with
1 standard EEOC procedures.

4 E. This Decree constitutes the good faith, fair and equitable
1 resolution of disputed claims.

5 **IV.**

1 **JURISDICTION**

6 A. The Court has jurisdiction over the parties and the subject
1 matter of this lawsuit. The Complaint asserts claims that, if proven, would
7 authorize the Court to grant the equitable relief set forth in this Decree.
1 This Decree conforms with the Federal Rules of Civil Procedure and Title
8 VII, and is not in derogation of the rights or privileges of any person.
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4 B. The Court shall retain jurisdiction of this action for the

5 duration of the Decree for the purposes of entering all orders, judgments

6 and decrees that may be necessary to implement and enforce the relief

7 agreed to herein.

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9 **V.**

0 **EFFECTIVE DATE AND DURATION OF DECREE**

1 A. The provisions and agreements contained herein shall become

2 effective immediately on the date on which this Decree is entered by the

3 Court ("the Effective Date").

4 B. This Decree shall remain in effect for One Year (1) year after

5 the Effective Date of Court's approval of this Decree.

6 **VI.**

7 **MODIFICATION AND SEVERABILITY**

8 A. This Decree comprises the complete understanding of the

9 parties with respect to the matters contained herein. No waiver,

0 modification or amendment of any provision of this Decree will be

1 effective unless made in writing, signed by an authorized representative of

2 each of the parties, and entered as an order by this Court.

3 B. If one or more provisions of this Decree are rendered unlawful

4 or unenforceable, the parties shall make good faith efforts to agree upon

5 appropriate amendments to this Decree in order to effectuate the purposes

6 of this Decree. In any event, the remaining provisions will remain in full

7 force and effect unless the purposes of this Decree cannot, despite the

8 parties' best efforts, be achieved.

C. By mutual agreement of the parties, this Decree may be amended or modified in the interests of justice and fairness in order to effectuate the provisions of this Decree.

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VII.

COMPLIANCE AND DISPUTE RESOLUTION

A. The parties agree that if the EEOC has reason to believe that Holy Family Catholic Family has failed to comply with any provision of this Decree, the EEOC may bring a petition before this Court to enforce the Decree. Prior to initiating such petition, the EEOC will notify Holy Family Catholic Academy's legal counsel of record, in writing, of the nature of the dispute. This notice shall specify the particular provisions that the EEOC believes have been breached. Holy Family Catholic Academy shall have thirty (30) days after receipt of the notice to attempt to resolve or cure any breach.

B. The parties agree to cooperate with each other and use their best efforts to resolve any dispute referenced in the EEOC's notice.

C. After thirty days have passed with no resolution or mutual written agreement to extend the time further, the EEOC may petition this Court for resolution of the dispute to secure compliance with the Decree and any other relief the Court may deem appropriate.

VIII.

MONETARY RELIEF

Within ten (10) business days after the Effective Date, Holy Family Catholic Academy shall deliver to the named Charging Party in care of the her attorney Otsuka & Buffington the lump sum of \$100,000.00 constituting non-economic damages. The sum disbursed to Charging Party [See 26 U.S.C. 104(a)(2)] shall be reported by Holy Family Catholic Academy on IRS Form 1099 which form shall be issued to the Charging Party who shall make appropriate reports to the Internal Revenue Service and other tax authorities. Within five (5) days, Holy Family Catholic Academy shall also mail a copy of the check to Anna Y. Park, Regional Attorney, U.S. Equal Employment Opportunity Commission at 255 East Temple Street, Fourth Floor, Los Angeles, California 90012.

IX.

GENERAL INJUNCTIVE RELIEF

A. Retaliation

Holy Family Catholic Academy, its officers, agents, management (including all supervisory employees), successors, assigns, and all those in active concert or participation with them, or any of them, hereby agree not to engage in, implement or permit any action, policy or practice with the purpose of retaliating against any current or former employee or applicant of Holy Family Catholic Academy, or either of them, because he or she has in the past, or during the term of this Decree: (a) opposed any practice made unlawful under Title VII; (b) filed a charge of discrimination alleging such practice; (c) testified or participated in any manner in any investigation (including without limitation, any internal investigation undertaken by Holy Family Catholic Academy), proceeding in connection

5 with this case and/or relating to any claim of a Title VII violation; (d) was
6 identified as a possible witness or claimant in this action; (e) asserted any
7 rights under this Decree; or (f) sought and/or received any relief in
accordance with this Decree.

8 **B. Policies and Procedures**

9 Holy Family Catholic Academy shall:

1 1. Review its procedures to handle complaints of
0 discrimination and to the extent necessary to comply with the terms of this
1 Decree, further develop procedures to handle complaints of discrimination;

1 2. To the extent necessary to comply with the terms of this
1 Decree, create and implement an anti-discriminatory policy and reporting
2 procedure to effectively carry out its obligations under this Decree;

1 3. Train managerial and staff/hourly employees on their
3 rights and responsibilities under Title VII, including but not limited to the
1 responsibilities to provide a workplace free of discrimination;

4 4. Train all employees on policies and procedures relating
1 to retaliation;

5 5. Continue to investigate all complaints of discrimination;

1 6. Ensure that Holy Family Catholic Academy properly
6 communicates with complainants regarding the complaint procedure, status
1 of the complaint/investigation, results of the investigation, and whether
7 remedial action was taken;

1 7. Ensure that all reports required by this Decree are
8 accurately compiled and timely submitted;

5 8. Review Holy Family Catholic Academy's current
6 disciplinary policies and to the extent necessary to comply with this
7 Decree, further create appropriate and consistent disciplinary policies to
8 hold employees and managers accountable for failing to take appropriate
action and/or for engaging in conduct prohibited under this Decree;

9 9. Review Holy Family Catholic Academy's current
0 centralized system of tracking discrimination complaints, and to the extent
1 necessary to comply with this Decree, further create a centralized system of
2 tracking discrimination complaints; and

3 10. Further ensure compliance with the terms of this
4 Decree.

5 **C. Revision of Policies Concerning Discrimination**

6 Holy Family Catholic Academy shall review its policy on
7 discrimination and to the extent necessary to comply with this Decree, Holy
8 Family Catholic Academy will review and if necessary revise its policy on
9 discrimination and provide a copy to the Commission within ninety (90)
days after the Effective Date. The revised policy shall include:

1 II. A clear explanation of prohibited conduct;

2 III. A clearly described complaint process that provides
3 accessible and confidential avenues of complaint with contact information
4 including address, and telephone number of persons both internal (i.e.,
5 human resources) and external to Holy Family Catholic Academy (i.e., the
6 EEOC) to whom employees may report discrimination.

5 IV. Assurance that the employer will protect the
6 confidentiality of all parties involved to the extent possible and consistent
7 with its investigation consistent with its investigation.

8 V. A complaint process that provides a prompt, thorough,
9 and impartial investigation;

0 5. A procedure for communicating with the complainant in
1 writing regarding the status of the complaint/investigation, results of the
2 investigation, and whether remedial action was taken; and

3 6. Assurance that Holy Family Catholic Academy will take
4 immediate and appropriate corrective action when it determines that
5 discrimination has occurred.

6 This revised policy shall be distributed to all employees, including
7 management/supervisory staff during its 2008/2009 pre-school year
8 opening meetings and shall be included in its employee manual. Holy
9 Family Catholic Academy shall collect acknowledgments from each
1 employee who receives the revised policy.

2 **D. Training**

3 Within sixty (60) days after Holy Family revises and redistributes its
4 policy on discrimination pursuant to Section C above, all of Holy Family
5 Catholic Academy's managerial/supervisory, human resources, and
6 staff/hourly employees employed in Honolulu shall be required to attend an
7 intensive training program of 2.0 hours for managerial employees and 1.5
8 hours for staff/hourly employees. The training shall be mandatory and
9 occur once each year for the term of this Decree. Each staff/hourly

5 employee shall be required to attend one training session each year, in a
6 language that each employee best understands.

7 1. All employee training shall include coverage of the
8 subjects of equal employment opportunity rights and responsibilities,
9 discrimination, and Holy Family Catholic Academy's revised policies and
1 procedures for reporting and handling complaints of discrimination.

0 2. The training of managerial employees shall additionally
1 include training on how to properly handle and investigate complaints of
1 discrimination in a neutral manner, how to take preventive and corrective
1 measures against discrimination, and how to recognize and prevent
1 discrimination.

2 3. For the remainder of the term of this Decree, all new
1 employees and all employees recently promoted from a staff/hourly to a
3 managerial position shall receive the managerial or staff/hourly employee
1 training, as appropriate, within thirty (30) days of hire or promotion. This
4 training may be conducted by videotaped presentation.

5 4. After the initial training as specified above, all
1 employees shall receive the training annually thereafter for the remainder
1 of the term of this Decree.

6 A. 5. All employees required to attend such
1 training shall verify their annual attendance in writing. Any
7 employees who fail to attend the live training shall be trained
1 within 30 days. This training may be conducted by videotaped
8 presentation.

5 B. 6. Holy Family Catholic Academy shall
6 submit to the EEOC a description of the training to be
7 provided and an outline of the curriculum developed for the
8 trainees, which complies with this Decree. Holy Family
9 Catholic Academy shall give the EEOC a minimum of ten (10)
0 business days advance written notice of the first annual
1 training of the date, time and location of each training program
2 provided pursuant to this Decree, and agrees that an EEOC
3 representative may attend the first training program.

4 C. 7. Human Resources training shall be specific
5 to their obligations, including the handling and investigating
6 of complaints of discrimination. This training shall be above
7 and beyond the supervisor/manager training as set forth above.
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9 VI. 8. Holy Family Catholic Academy may encourage
0 resolution
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2 VII. of internal complaints at a local Level prior to investigation. A
3 complainant shall not be required to first report the complaint to a
4 person who the complainant has accused of the inappropriate
5 conduct to invoke the Internal Complaint Procedure.
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7 9. Holy Family Catholic Academy will maintain a policy
8 of nondiscrimination and equal treatment, including a policy of zero
9 tolerance for unlawful discrimination and retaliation, in all of its
employment practices.
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10. The Internal Complaint Procedure is not intended to supplant the right of any employee to file a charge or complaint of discrimination or retaliation under any available municipal, state, or federal law.

11. Holy Family Catholic Academy shall publish with the Internal Complaint Procedure the following elements that will be included in the procedure:

(a) A statement that it is unacceptable to retaliate against any employee for use of the Internal Complaint Procedure, for assisting in the investigation of a complaint, or for otherwise assisting in the utilization of the procedure.

1. (b) A statement that if an allegation of discrimination or retaliation against a manager or other employee is substantiated, then such conduct will result in appropriate discipline, up to and including discharge.

VIII. E. Neutral Reference

Should Holy Family Catholic Academy be contacted by prospective employers at any time, it shall give only the dates of employment for and position held by Roxanne Castilliano.

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RECORD KEEPING AND REPORTING

A. Record Keeping

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4 Holy Family Catholic Academy shall maintain its centralized

5 tracking of discrimination and to the extent necessary to comply with the

6 terms of this Decree, it will further establish a record-keeping procedure

7 that provides for the centralized tracking of discrimination complaints and

8 the monitoring of such complaints to prevent retaliation. The records to be

9 maintained shall include:

1 1. All documents generated in connection with any

0 complaint, investigation into, or resolution of every complaint of

1 discrimination for the duration of the Decree and the identities of the

1 parties involved;

1 2. All forms acknowledging employees' receipt of Holy

2 Family Catholic Academy's revised discrimination policy;

3 3. All documents verifying the occurrence of all training

3 sessions and names and positions of all attendees for each session as

1 required under this Decree; and

4 4. Documents tracking and analyzing complaints filed against

1 the same employee and location.

5 The foregoing documents shall be summarized in the annual report

1 set forth below.

6 **B. Reporting**

1 Holy Family Catholic Academy shall provide the following report to

7 the EEOC in writing, by mail or facsimile:

1 1. Within ninety (90) days after the presentation of Holy

8 Family Catholic Academy's training program described above, Holy

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5 Family Catholic Academy shall submit to the EEOC an initial report which
6 contains:

- 7 (a) A copy of the revised discrimination policy;
- 8 (b) A summary of the procedures and record-keeping
9 methods for centralized tracking of discrimination complaints
1 and the monitoring of such complaints; and
- 0 (d) Copies of all employee acknowledgment forms
1 indicating receipt of the revised discrimination policy.

1 2. Holy Family Catholic Academy shall also provide the
1 following reports annually for the term of this Decree:

- 1 (a) The attendance lists of all attendees for all
2 training sessions required under this Decree;
- 3 (b) Acknowledgments of receipt of the revised
1 discrimination policy for all employees hired during the year
4 following the Effective Date of this Decree Agreement; and
- 5 (c) An analysis of the monitoring done for repeat
1 complaints by employees; and

6 3. Holy Family Catholic Academy shall, for a year
1 following the Effective Date of this Decree Agreement, provide a report to
7 the EEOC detailing any changes of the procedures or record-keeping
1 methods for centralized tracking of discrimination complaints and the
7 monitoring of such complaints within thirty (30) days before implementing
1 such changes.

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10 **XI.**
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12 **COSTS OF ADMINISTRATION AND IMPLEMENTATION**
13 **OF CONSENT DECREE**
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15 Holy Family Catholic Academy shall bear all costs associated with
16 its administration and implementation of its obligations under this Consent
17 Decree.
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19 **XII.**
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21 **COSTS AND ATTORNEYS' FEES**
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23 Each party shall bear its own costs of suit and attorneys' fees.
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25 **XIII.**
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27 **MISCELLANEOUS PROVISIONS**
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29 A. For one year following the Effective Date of this Decree, Holy
30 Family Catholic Academy shall provide any potential successor-in-interest
31 with a copy of this Consent Decree within a reasonable time of not less
32 than thirty (30) days prior to the execution of any agreement for acquisition
33 or assumption of control of it's Hawaii facilities, or any other material
34 change in corporate structure, and shall simultaneously inform the EEOC
35 of same.
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37 B. For one year following the Effective Date of this Decree, Holy
38 Family Catholic Academy and its successors shall assure that each of its
39 officers, managers and supervisors located in Hawaii are aware of any
40 term(s) of this Decree which may be related to his/her job duties.
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42 C. Unless otherwise stated, all notices, reports and
43 correspondence required under this Decree shall be delivered to the
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5 attention of the Regional Attorney, Anna Y. Park, U.S. Equal Employment
6 Opportunity Commission, Los Angeles District Office, 255 E. Temple St.,
7 4th Fl., Los Angeles, CA 90012.

8 C.D The parties agree to entry of this Decree subject to final
9 approval by the Court.

0 C.E The parties agree to sign in counterparts, and each such
1 counterpart shall be deemed an original as to the party to be charged.

2 C.F

3 EQUAL EMPLOYMENT
4 OPPORTUNITY COMMISSION
5 Anna Y. Park, Regional Attorney
6 Gregory L. McClinton, Trial Attorney

7 Date: 4/11/08 By: /s/Anna Park -
8 Anna Park
9 Regional Attorney
Attorneys for Plaintiff

0 Date: 3/28/08 By: /s/ Janice T. Futa
1 Janice T. Futa, Esquire
2 Hisaka Yoshida & Cosgrove
3 Attorney for Defendant
4 HOLY FAMILY CATHOLIC ACADEMY

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6 **ORDER**
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8 This Court having found that the foregoing Consent Decree was
9 entered into in good faith and that the terms of the foregoing Consent
1 Decree are fair, reasonable, and just, the provisions of the foregoing
2 Consent Decree are hereby approved and compliance with all provisions
3 thereof is HEREBY ORDERED.
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6 IT IS SO ORDERED.
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0 DATED: Honolulu, Hawaii, April 23, 2008.
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Alan C. Kay
1 Alan C. Kay
0 Sr. United States District Judge
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